

IOWA PUBLIC INFORMATION BOARD[497]

Notice of Intended Action

Proposing rule making related to board actions and exempt sessions and providing an opportunity for public comment

The Iowa Public Information Board (IPIB) hereby proposes to amend Chapter 2, “Complaint Investigation and Resolution Procedures,” and Chapter 8, “Open Meetings,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 23.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 17A, 21 and 22.

Purpose and Summary

The IPIB seeks to remove paragraph 2.2(4)“e” from Chapter 2. The IPIB also proposes to add rule 497—8.3(21,22) relating to exempt sessions to Chapter 8. The new rule explains Iowa Code section 21.9.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the IPIB for a waiver of the discretionary provisions, if any, pursuant to 497—Chapter 9.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the IPIB no later than 4:30 p.m. on October 1, 2019. Comments should be directed to:

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Iowa Public Information Board
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Phone: 515.725.1783
Fax: 515.725.1789
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Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental

subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 2.2(4) as follows:

2.2(4) Board action. Upon receipt and review of the staff investigative report and any recommendations, the board may:

- a. Redirect the matter for further investigation;
- b. Dismiss the matter for lack of probable cause to believe a violation has occurred;
- c. Make a determination that probable cause exists to believe a violation has occurred, but, as an exercise of administrative discretion, dismiss the matter; or
- d. Make a determination that probable cause exists to believe a violation has occurred, designate a prosecutor and direct the issuance of a statement of charges to initiate a contested case proceeding; or
- ~~e. Direct administrative resolution of the matter under subrule 2.1(6) without making a determination as to whether a violation occurred.~~

ITEM 2. Adopt the following **new** rule 497—8.3(21,22):

497—8.3(21,22) Exempt sessions.

8.3(1) An Iowa Code section 21.9 exempt session is a meeting to discuss strategy concerning employment conditions of employees of a governmental body who are not covered by a collective bargaining agreement under Iowa Code chapter 20.

8.3(2) “Employment conditions” include wages, hours, vacations, insurance, holidays, leaves of absence, shift differentials, overtime compensation, supplemental pay, seniority, transfer procedures, job classifications, health and safety matters, evaluation procedures, procedures for staff reduction, in-service training, and grievance procedures.

8.3(3) An exempt session does not fall under the requirements of Iowa Code chapter 21; therefore, notice, a tentative agenda, minutes, and other requirements of Iowa Code chapter 21 do not apply.

8.3(4) The purpose of an exempt session is to allow a governmental body to formulate its position on the terms and conditions of employment for non-union employees in private. An exemption from the open meetings law for this purpose parallels the exemption provided by Iowa Code chapter 20 for governmental bodies negotiating with employee unions. Meetings to evaluate the professional competency of an individual whose appointment, hiring, performance, or discharge is being considered are subject to the requirements of Iowa Code section 21.5(1) “i.”

This rule is intended to implement Iowa Code section 21.9.